

1 **SENATE RESOLUTION NO. 10**

2 (By Senators Kessler (Acting President), Green, Unger, Browning,
3 McCabe, Stollings, Sypolt, Plymale, K. Facemyer, Williams,
4 Minard, Hall, Laird, Jenkins, Boley, Nohe, Yost, Klempa, Wells,
5 Prezioso, Beach, Miller, Palumbo, Snyder, Edgell, D. Facemire and
6 Tucker)

7
8 Urging the U.S. Environmental Protection Agency to reconsider its
9 January 13, 2011, action to veto the permit issued by the U.S.
10 Army Corps of Engineers for the Spruce Mine in Logan County,
11 West Virginia.

12 Whereas, The Senate, during the 2010 Regular Legislative
13 Session, expressed its will by adopting SCR No. 61 urging the EPA
14 not to veto the Spruce Mine Permit; and

15 Whereas, The House, during the 2010 Regular Legislative
16 Session, adopted HCR 111 which further enunciated the intent of the
17 Legislature with respect to West Virginia's "narrative water
18 quality standards" and upon such, urged EPA to recognize
19 Congressional Intent as enacted in the Federal Water Pollution
20 Control Act whereby Congress declared that "it is the policy of
21 Congress to recognize, preserve and protect the primary
22 responsibilities and rights of States to prevent, reduce, and
23 eliminate pollution, to plan the development and use of land and
24 water resources...."; and

25 Whereas, The Legislature, found the U.S. Army Corps of
26 Engineers issued a permit to the Spruce Mine in Logan County, West

1 Virginia after years of intensive review, including the conclusion
2 of a full environmental impact statement; and

3 Whereas, In the course of its deliberations regarding the
4 Spruce Mine, the U.S. Environmental Protection Agency has raised
5 concerns regarding water quality; and

6 Whereas, Interpretations and implementation of West Virginia's
7 water quality standards is also the responsibility of the West
8 Virginia Legislature and the West Virginia Department of
9 Environmental Protection, who has previously determined that the
10 Spruce Mine complies with the water quality standards, including
11 the narrative standards approved by the Legislature and implemented
12 by the West Virginia Department of Environmental Protection; and

13 Whereas, The permit has been in place for three years and has
14 become operational and employees have been hired; and

15 Whereas, EPA has heretofore announced its intentions of
16 vetoing the Spruce Mine permit and advanced proceedings to carry
17 through with its veto intentions during 2010 in apparent disregard
18 for the rights invested in West Virginia by Congressional Acts to
19 also regulate water quality and in disregard for the State's water
20 quality standards found to strike a healthy balance between high
21 environmental quality and economic growth opportunities; and

22 Whereas, The EPA in its veto has failed to provide guidance on
23 correcting the Spruce Mine permit; and

24 Whereas, The permit veto issued by the U.S. Environmental
25 Protection Agency will certainly result in the loss of jobs and
26 investments at Spruce Mine Company in Logan County, West Virginia

1 and will have a major impact, not only to Logan County, West
2 Virginia, but will further impact the financial stability of the
3 State of West Virginia in an unstable economy; therefore, be it

4 *Resolved by the Senate:*

5 That the Senate hereby urges the U.S. Environmental Protection
6 Agency to reconsider the permit veto for the Spruce Mine in Logan
7 County, West Virginia based on its recognition of the comprehensive
8 nature of West Virginia water quality standards; and, be it

9 *Further Resolved,* That the Senate urges the EPA to provide
10 clear and concise guidance to Spruce Mine on how to correct its
11 permit; and, be it

12 *Further Resolved,* That the Senate expresses the sentiment that
13 mining in West Virginia can be done safely, efficiently and
14 profitably while protecting the water quality of the State; and, be
15 it

16 *Further Resolved,* That the Senate as a body takes the lead in
17 facilitating a multi-state response to provide a stronger, more
18 cohesive and coordinated voice on matters involving EPA and
19 national coal and energy issues; and, be it

20 *Further Resolved,* That the Clerk of the Senate is hereby
21 directed to forward a copy of this resolution to the U.S.
22 Environmental Protection Agency, the U.S. Army Corps of Engineers,
23 the U.S. Council of Environmental Quality, the members of the West
24 Virginia Delegation to the Congress of the United States and the
25 President of the United States.